



## Senate

General Assembly

**File No. 501**

*January Session, 2005*

Substitute Senate Bill No. 256

*Senate, April 25, 2005*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### **AN ACT CONCERNING THE LIABILITY OF SKI AREA OPERATORS FOR INJURIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-211 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 In the operation of a passenger tramway or ski area, each operator  
4 shall have the obligation to perform certain duties including, but not  
5 limited to: (1) Conspicuously marking all trail maintenance vehicles  
6 and furnishing the vehicles with flashing or rotating lights which shall  
7 be operated whenever the vehicles are working or moving within the  
8 skiing area; (2) conspicuously marking the location of any hydrant or  
9 similar device used in snow-making operations and placed on a trail or  
10 slope; (3) conspicuously marking the entrance to each trail or slope  
11 with a symbol, adopted or approved by the National Ski Areas  
12 Association, which identifies the relative degree of difficulty of such  
13 trail or slope or warns that such trail or slope is closed; (4)

14 conspicuously marking [all lift towers within the confines of] any lift  
15 tower that is located on a trail or slope and is not readily visible; (5)  
16 maintaining one or more trail boards, at prominent locations within  
17 the ski area, displaying such area's network of ski trails and slopes,  
18 designating each trail or slope in the same manner as provided in  
19 subdivision (3) of this section and notifying each skier that the wearing  
20 of ski retention straps or other devices used to prevent runaway skis is  
21 required by this section, section 29-201 and sections 29-212 to [29-214]  
22 29-213, inclusive; (6) in the event maintenance [men] personnel or  
23 equipment are being employed on any trail or slope during the hours  
24 at which such trail or slope is open to the public, conspicuously  
25 posting notice thereof at the entrance to such trail or slope; and (7)  
26 conspicuously marking trail or slope intersections.

27 Sec. 2. Section 29-212 of the general statutes is repealed and the  
28 following is substituted in lieu thereof (*Effective October 1, 2005*):

29 (a) For the purposes of this section:

30 (1) "Skier" includes any person who is using a ski area for the  
31 purpose of skiing or who is on the skiable terrain of a ski area as a  
32 spectator or otherwise, but does not include (A) any person using a  
33 snow tube provided by a ski area operator, and (B) any person who is  
34 a spectator while in a designated spectator area during any event;

35 (2) "Skiing" means sliding downhill or jumping on snow or ice using  
36 skis, a snowboard, snow blades, a snowbike, a sit-ski or any other  
37 device that is controllable by its edges on snow or ice or is for the  
38 purpose of utilizing any skiable terrain, but does not include snow  
39 tubing operations provided by a ski area operator; and

40 (3) "Ski area operator" means a person who owns or controls the  
41 operation of a ski area and such person's agents and employees.

42 (b) Each skier shall assume the risk of and legal responsibility for  
43 any injury to his or her person or property [arising out of] caused by  
44 the hazards inherent in the sport of skiing. [, unless the injury was

45 proximately caused by the negligent operation of the ski area by the  
 46 ski area operator, his agents or employees.] Such hazards include, but  
 47 are not limited to: (1) Variations in the terrain of the trail or slope  
 48 which is marked in accordance with subdivision (3) of section 29-211,  
 49 as amended by this act, or variations in surface or subsurface snow or  
 50 ice conditions, except that no skier assumes the risk of variations  
 51 which are caused by the ski area operator unless such variations are  
 52 caused by snow making, snow grooming or rescue operations; (2) bare  
 53 spots which do not require the closing of the trail or slope; (3)  
 54 conspicuously placed or, if not so placed, conspicuously marked lift  
 55 towers; (4) trees or other objects not within the confines of the trail or  
 56 slope; (5) [boarding] loading, unloading or otherwise using a  
 57 passenger tramway without prior knowledge of proper loading and  
 58 unloading procedures or without reading instructions concerning  
 59 loading and unloading posted at the base of such passenger tramway  
 60 or without asking for such instructions; and (6) collisions with any  
 61 other person by any skier while skiing, except that collisions with on-  
 62 duty employees of the ski area operator who are skiing and are within  
 63 the scope of their employment at the time of the collision shall not be a  
 64 hazard inherent in the sport of skiing.

65 (c) The provisions of this section shall not apply in any case in  
 66 which it is determined that a claimant's injury was not caused by a  
 67 hazard inherent in the sport of skiing.

68 Sec. 3. Section 29-214 of the general statutes is repealed. (*Effective*  
 69 *October 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	29-211
Sec. 2	<i>October 1, 2005</i>	29-212
Sec. 3	<i>October 1, 2005</i>	Repealer section

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes various changes to the liability of ski area operators. Any resulting impact on the caseload of the Judicial Department is expected to be negligible and, thus, there is no fiscal impact.

**OLR Bill Analysis**

sSB 256

**AN ACT CONCERNING THE LIABILITY OF SKI AREA OPERATORS FOR INJURIES****SUMMARY:**

Under current law, each skier assumes the liability for any injury he suffers arising out of the risks inherent in the sport of skiing, unless the injury was proximately caused by the negligent operation of the ski area by the ski area operator, his agents, or employees. Current law also specifies what some of the inherent risks are. The bill makes several changes to this law. Specifically, it:

1. eliminates the exception contained in the assumption of risk law for injuries caused by the negligent operation of the ski area by the operator, his agents, or employees;
2. specifies that collisions with on-duty employees who are skiing and are within the scope of their employment are not an inherent risk of skiing and thus skiers do not assume liability for such collisions (see related case in BACKGROUND);
3. makes loading, unloading, or otherwise using, instead of boarding, a passenger tramway without prior knowledge of proper loading and unloading procedures, or without reading instructions concerning loading and unloading posted at the base of the passenger tramway or without asking for such instructions, an inherent risk;
4. makes conspicuously placed lift towers an inherent risk of skiing;
5. makes spectators on skiable terrain who are not in a designated area during any event assume responsibility for such inherent hazards;
6. makes those who use other equipment on ski areas such as snowboards also assume legal responsibility for inherent risks;

and

7. eliminates the right of ski operators to raise certain special defenses in lawsuits by skiers.

The law imposes certain duties on ski operators. Current law requires the ski area and passenger tramway operators to conspicuously mark all lift towers within the confines of any trail or slope. The bill instead requires the operator to do so only if the tower is not readily visible.

Finally, the bill specifies that the assumption of liability provision does not apply to any case where it is determined that an injury was caused by something other than an inherent risk of skiing.

EFFECTIVE DATE: October 1, 2005

## **SNOWBOARDS AND OTHER EQUIPMENT USED ON SKI AREAS**

The bill makes anyone who slides downhill or jumps on snow or ice using a snowboard, snow blades, a snowbike, a sit-ski or any other device that is controllable by its edges on snow or ice, or is for the purpose of using any skiable terrain assume the risks inherent in skiing. The bill specifies that those engaging in snow tubing operations provided by a ski area operator do not assume legal responsibility for inherent dangers.

## **STATUTORY DEFENSES**

The bill eliminates the statutory right of a ski operator to prevail in a lawsuit by alleging and proving that the skier who is suing him did not:

1. know the range of his own ability to negotiate any trail or slope that is conspicuously marked for its degree of difficulty or as closed;
2. ski within the limits of his own ability;
3. maintain reasonable control of speed and course at all times while skiing;
4. heed all posted warnings;

5. ski on a skiing area designated by the operator; or
6. embark on or disembark from a passenger tramway at a designated area.

## **BACKGROUND**

### ***Related Case***

The Connecticut Supreme Court recently interpreted the statute the bill amends. It held that under this statute, a skier does not assume the risk of, and legal responsibility for, an injury arising out of a collision with a ski instructor, acting in the course of his employment with the ski area operator, when the collision is caused by the instructor's negligence (*Jagger v. Mohawk Mountain Ski Area*, 269 Conn. 672 (2004)).

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 39      Nay 0